

IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA

JANE DOE,

Plaintiff,

vs.

THE NEBRASKA LAMBDA PI CHAPTER OF
SIGMA ALPHA EPSILON FRATERNITY,
SIGMA ALPHA EPSILON FRATERNITY,
SIGMA ALPHA EPSILON BUILDING ASSOCIATION,
Defendants.

CASE NO CI- 18-3961

COMPLAINT, PRAECIPE
AND DEMAND FOR JURY

LANCASTER COUNTY
2018 NOV 28 PM 4:09
CLERK OF THE
DISTRICT COURT

COMES NOW the plaintiff, Jane Doe, by and through her attorneys Vincent M. Powers
and Powers Law, and for her cause of action against the defendants, and states as follows:

THE PARTIES

1. That at all times relevant the Plaintiff Jane Doe was a resident of Lincoln, Lancaster County, Nebraska. Jane Doe requests to proceed under the name of "Jane Doe" to protect her privacy;
2. That at all times relevant, the Nebraska Lambda Pi Chapter of Sigma Alpha Epsilon was a fraternity affiliated with the University of Nebraska and located in Lincoln, Lancaster County, Nebraska and was associated with Sigma Alpha Epsilon, a national men's fraternity;
3. That at all times relevant, the Sigma Alpha Epsilon Building Association was a Nebraska Non Profit Corporation, which owned and operated the fraternity located at 635 N. 16th Street in Lincoln, Nebraska;



001881295D02

4. That at all times relevant Sigma Alpha Epsilon Fraternity was a national men's fraternity which operated and oversaw the University of Nebraska Lambda Pi chapter of Sigma Alpha Epsilon;
5. Venue lies in Lancaster County because the negligent acts and omissions complained of occurred in Lancaster County and all parties reside therein;

FACTUAL BACKGROUND

6. That defendant Sigma Alpha Epsilon Fraternity owns, controls, maintains and/or operates a social fraternity, organized into chapters, at various institutions of higher learning throughout the United States of America. Said defendant provides each chapter with policies and guidelines pertaining to risk management, including policies and guidelines relating to the risks created by the consumption of alcohol by fraternity members and their guests and the risks of sexual assault perpetrated at their chapters;
7. That on or about October 22, 2018, Sigma Alpha Epsilon Building Association and Nebraska Lambda Pi chapter of Sigma Alpha Epsilon, controlled, maintained and/or operated a collegiate fraternity chapter located at 635 N. 16th Street in Lincoln, Nebraska and affiliated with the University of Nebraska;
8. That at all times relevant, *Sigma Alpha Epsilon Building Association*, was a separate corporation that managed and/or held title to and/or rented the dwelling located at 635 N. 16th Street in Lincoln, Nebraska used for housing and/or meeting and social purposes of the Nebraska Lambda Pi Chapter of Sigma Alpha Epsilon Fraternity and whose board served in an advisory capacity to the collegiate chapter;

9. That on the evening of October 22, 2018 through the morning of October 23, 2018, the defendants, acting by and through their members, agents and/or officers, hosted a party at a rental property occupied by members of Sigma Alpha Epsilon located at 2845 Starr Street in Lincoln, Nebraska, and at the chapter house located at 635 N. 16th Street, and invited members of a sorority including Jane Doe;
10. That during the party Jane Doe consumed liquids that were served to her by fraternity members at the party and she became incapacitated.
11. That she awoke on the morning of October 23, 2018 at the chapter house at 635 N. 16th Street with no memory of returning to the chapter house, to find that she had been sexually assaulted by an unknown assailant who was a member of Sigma Alpha Epsilon fraternity;
12. That the defendants took no steps to protect the plaintiff from being sexually assaulted despite the knowledge that she was incapacitated and that sexual assault was a known risk of a party where alcohol was being consumed in excess;
13. That at no time did the Assailant ask for the plaintiff's consent to sex nor was the plaintiff capable of consenting to sex;
14. That the defendants were aware of the substantial likelihood of sexual assaults at this and other similar events;
15. That by their actions and omissions, the defendants, and each of them, created an *unsafe condition for females, knew of the unsafe condition or by the exercise of reasonable care would have discovered the unsafe condition described above;*

16. The defendants should have realized that the unsafe condition involved an unreasonable risk of harm to the plaintiff;
17. That due to the plaintiff's physical and mental condition after consuming liquids, the defendants' members should have expected that the plaintiff would have either:
 - a. Not discovered or realized the danger; and/or
 - b. Would fail to protect herself against the danger;
18. The defendants failed to use reasonable care to protect the plaintiff against sexual assault;
19. The sexual assault was a proximate cause of the injuries suffered by the plaintiff;
20. The defendants, and each of them, by and through their members, agents and officers, were negligent in one or more of the following particulars:
 - a. Failing to have adequate policies and procedures in place to ensure the safety of female guests at events like the party hosted by the Lambda Pi Chapter of Sigma Alpha Epsilon Fraternity on October 22-23, 2018;
 - b. In failing to enforce policies and procedure to protect female guests at events like the party on October 22-23, 2018;
 - c. In failing to properly hire, train and retain officers and/or staff/ and or members as to proper methods to protect women from sexual assault at events like the party at the Lambda Pi Chapter of Sigma Alpha Epsilon on October 22-23, 2018;
 - d. In failing to provide a safe environment for female invitees like the Plaintiff;
 - e. In failing to develop and implement basic safeguards to prevent sexual assault;

- f. In failing to adopt education programs to promote awareness of rape, date rape and other sex crimes;
 - g. In providing alcohol to minors in violation of Nebraska law.
21. Each of the negligent acts and/or omissions set forth above were individually or in the aggregate a proximate cause of the plaintiff's harm,

FIRST CAUSE OF ACTION

22. Plaintiff incorporates paragraphs 1-21 as if fully set forth herein.
23. As a proximate result of the negligence of the defendant, Lambda Pi Chapter of Sigma Alpha Epsilon Fraternity, Plaintiff was caused to incur medical expenses and will incur health care expenses in the future, and has had her education disrupted, all to her damage
24. As a proximate result of the negligence of the defendant Lambda Pi Chapter of Sigma Alpha Epsilon Fraternity, the Plaintiff suffered physical injury, past, present and future mental anguish, humiliation, inconvenience and disability.

WHEREFORE, Plaintiff prays for a judgment against the defendant Lambda Pi Chapter of Sigma Alpha Epsilon Fraternity for the damages claimed herein, and such other relief as the court deems just, together with the costs of this action.

SECOND CAUSE OF ACTION

25. Plaintiff incorporates paragraphs 1-24 as if fully set forth herein.
26. As a proximate result of the negligence of the defendant, Sigma Alpha Epsilon Building Association, Plaintiff was caused to incur medical expenses and will incur

health care expenses in the future, and has had her education disrupted, all to her damage

27. As a proximate result of the negligence of the defendant Sigma Alpha Epsilon

Building Association, the Plaintiff suffered physical injury, , past, present and future mental anguish, humiliation, inconvenience and disability.

WHEREFORE, Plaintiff prays for a judgment against the defendant Sigma Alpha Epsilon Building Association for the damages claimed herein, and such other relief as the court deems just, together with the costs of this action.

THIRD CAUSE OF ACTION

28. The Plaintiff incorporates paragraphs 1-27 as if fully set forth herein.

29. As a proximate result of the negligence of the defendant, Sigma Alpha Epsilon

Fraternity, Plaintiff was caused to incur medical expenses in the approximate amount of \$3,000.00.

30. As a proximate result of the negligence of the defendant Sigma Alpha Epsilon

Fraternity, the Plaintiff suffered physical injury, and an aggravation of a pre-existing condition, past, present and future mental anguish, humiliation, inconvenience and disability.

WHEREFORE, Plaintiff prays for a judgment against the defendant Sigma Alpha Epsilon Fraternity for the damages claimed herein, and such other relief as the court deems just, together with the costs of this action.

FOURTH CAUSE OF ACTION

31. The Plaintiff incorporates paragraphs 1-30 as if fully set forth herein.

32. That at the time of the sexual assault of the plaintiff, all of the defendants herein were engaged in a joint venture, the purpose of which was to recruit paying members, and promote and operate a chapter of the Sigma Alpha Epsilon Fraternity affiliated with the University of Nebraska Greek System;
33. That at the time the sexual assault occurred, the defendants were acting within the *ordinary course of the business of the joint venture*;
34. That at the time of the negligence alleged herein, the defendants were acting within the ordinary course of the joint venture with the authority of the other members of the joint venture and in furtherance of the purpose and interests of the joint venture;
35. As a proximate result of the negligence of the defendants, Plaintiff was caused to incur medical expenses and will incur health care expenses in the future, and has had her education disrupted, all to her damage
36. As a proximate result of the negligence of the defendants, the Plaintiff suffered physical injury, past, present and future mental anguish, humiliation, inconvenience and disability.

WHEREFORE, Plaintiff prays for a judgment against the defendants jointly and severally for the damages claimed herein, and such other relief as the court deems just, together with the costs of this action.

DATED this 21st day of November, 2018.

JANE DOE, Plaintiff

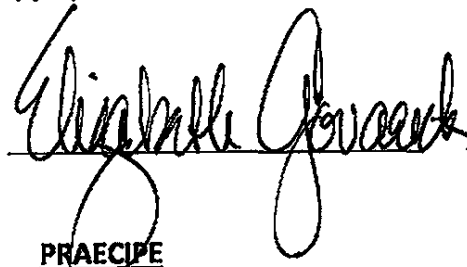
BY: 

Vincent M. Powers, #15866

Elizabeth Govaerts #20315
POWERS LAW
411 S. 13th Street, #300
Lincoln, NE 68508
(402) 474-8000
vince@vpowerslaw.com

REQUEST FOR JURY

The Plaintiff demands a trial by jury in the above action in Lincoln, NE


PRAECIPE

TO THE CLERK OF SAID COURT:

Please issue Summons upon the defendants and return the same to counsel for the Plaintiff for Service by Certified Mail as follows:

561603
President or Secretary
The Nebraska Lambda Pi Chapter of Sigma Alpha Epsilon Fraternity
635 N. 16th Street
Lincoln, NE 68508

561604
W. Gary Westling, President
Sigma Alpha Epsilon Fraternity
The Levere Memorial Temple
1856 Sheridan Road
Evanston, IL. 60201

561605
Scott Tollefsen, Registered Agent
Sigma Alpha Epsilon Building Association
201 North 8th Street, #300
Lincoln, NE 68508

George G. Smith